MR. T. C. KESAVA PILLAI: Sir, I beg to move that the Bill may be passed.

MR. M. G. KESAVA PILLAI: Sir, I second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, there is no objection in passing the Bill.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, I rise to a point of order.

According to Rule 43 contained in Chapter 17, Page 39 of the Assembly Manual, I wish to know whether it would be a correct procedure to take up the third reading for the passing of the Bill.

MR. PUTHUPALLI S. KRISHNA PILLAI: There were two substantial amendments proposed. One was withdrawn and the other rejected. The other amendments are only verbal and the President can suspend the standing order.

PRESIDENT: The amendments are clerical in character. So, the question before the House is that the Bill be passed into law.

The question was put to vote and carried.

The Bill was passed.

THE TRAVANCORE CHILD MARRIAGE RESTRAINT BILL.

SRIMATI T. NARAYANI AMMA: Sir, I beg to move "in clause 11 substitute the word 'individual' for the word 'family', in line 2."

Sir, the amendment speaks for itself.

The clause as amended reads as follows :—

> "Our Government may, by notification in the Government Gazette, exempt any individual in Travancore from the operation of this Act, on application made in that behalf within six months of the passing of this Act."

It is hardly necessary for me to speak at length on this. I need hardly point out that clause 11 will nullify the effect of the Bill when it is passed into law. The word 'family' is a wide one and if any family can be given exemption a large number of people can manage to be outside the purview of the law. Indeed, the inhabitants of a whole village can in some way or other claim to be connected to an exempted family with results which practically make the law null and void. I am emphatically of opinion, Sir, that to allow the act to be made a dead letter by the retention of such a clause will be a blot, a stain, on the fair name of this progressive State. If in exceptional cases exemptions are found necessary the purpose will be amply served by exempting the individuals concerned. But, why should, I ask, whole families be exempted from the provisions of this Act except it be with the express intention of defeating the object of the Bill? It will not be inappropriate. If I mention in this connection, that when Mr. B. Das's Bill

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was being discussed in the Central Assembly, the mover read a telegram. This telegram was once read by me in this Assembly in connection with a previous amendment. I feel it is worthy of repetition any number of times and so with your permission I shall read it.

> "As humble practical thanks-giving for noble support by Government, Congress and other Members to Das's Bill to stiffen Sarda Act, I, on behalf of our daughters and sons, offer Rs. 5,000 for erecting a column on Assembly grounds for inscribing in gold names of benevolent supporters and in black of opposers for our progeny to know our saviours and destroyers. I appeal all to stop early marriage which brings sickness, weakness, tuberculosis, early death and emaciates the nation. Cheque of Rs. 1,000 sent to Honourable Home Member, balance to follow on acceptance of proposal"

Sir, this telegram speaks for itself. This shows the enthusiasm with which the Bill was received in the Assembly and I have reason to believe that in Travancore there is considerable popular enthusiasm in favour of the reform which my Bill stands for. It will be a great disappointment to all these supporters of this Bill if this Bill cannot be made as useful as possible. I hope therefore that there cannot be any objection to my amendment, the object of which is to exempt any individual child from the operation of the Act. The object of those who want an exemption being provided for to deal with exceptional cases, will be fully satisfied by substituting the word individual child for the word 'family'. I therefore crave the permission of the House to support my amendment for the substitution of the words "individual child." I request that the whole House including the Official Benches will lend their support.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I wish to ascertain whether she is moving an amendment to the amendment she has already moved?

PRESIDENT: Yes.

SRIMATI DEVAKI ANDHARJANAM: ശ്രീമതി നാരായണിയമ്മ ഇവിടെ അവതരിപ്പിച്ച അമൻറ്മെൻറിനെ ഞാൻ അനുകൂലിക്കുന്നു. ഫാമിലി എന്നവാക്കു എടുത്തുകളയേണ്ടതുതന്നെയാണ്. അതിനുപകരം ശിശുവായ വ്യക്തി എന്നുചേർക്കേണ്ടതാണ്. ഗ്രാമങ്ങളിൽ ഉള്ളവർ ഇപ്പോഴും സാധാരണയായി ബന്ധുക്കളെ ഫടിപ്പിച്ച വരികയാണ്. അങ്ങിനെ ചെയ്യുവരുന്നതു് ഫാമിലി എന്നതിനെ അടിസ്ഥാനപ്പെടുത്തിയാണ്. അതുകൊണ്ടു ശ്രീമതി നാരായണിഅമ്മ അവതരിപ്പിച്ച ഭേദഗതിയെ ഞാൻ അനുകൂലിക്കുന്നു.

MR. K. R. RAMASUBBA SASTRI: I beg leave to oppose the amendment. I am very sorry to adopt the unusual attitude of having to oppose the whole of that amendment moved by a member of the opposite sex. But unfortunately the amendment seems to be very much wanting in clearness of expression. In the first place we are asked to substitute

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[Mr. K. R. Ramasubba Sastri.]

the word 'individual' for the word 'family' in line two. I will now read the amendment as it would be when amended as proposed by the learned mover.

"Our Government may, by notification in the Government Gazette, exempt any individual in Travancore from the operation of this Act, on application made in that behalf within six months of the Passing of this Act."

Now the substitution of the word 'individual' would mean that the application should be made by the very individual who wants exemption. Now the child marriage bill is supposed to be a restrained on marriages of children. So it is the children who have to move for exemption from the operation of the Act. 'Individual' is not qualified by saying guardian or father so far as it goes. So, from the wording, as it stands it would mean that the individual who is to apply for the exemption must be the individual who seeks the benefits of the Act. That, I submit, is a proposition which may look senseless.

Sir, this is an unfortunate piece of legislation which does not seek to affect marriage as it is, but which provides for the punishment of persons who take part in the marriage; the marriage itself is considered valid in law, and will be covered by the doctrine of *factum valet* under Hindu Law. This measure is perhaps unique in that it does not seek to prevent the offence being committed but seeks to punish what it calls offenders. after allowing them to commit the offence. Even the purohits who attend the marriage and the invitees who go and receive betel and cocoanut will also be liable to punishment.

According to the present amendment, Sir, if a child is to be married, the child itself has to apply for exemption from this Act. If its father or guardian applies and gets the exemption, and then celebrates the marriage, as the amendment stands at present, there is nothing to prevent all the parties involved being prosecuted for violation of this Act and then, there is nothing to prevent the Magistrate from taking the present amendment literally and holding that the exemption granted was not granted to the individual child but only to its guardian or father, and therefore was no valid exemption. The Magistrate will be perfectly within his rights if he decides like that; he cannot be found fault with for not putting sense into the amendment.

Sir, I should think it is the privilege of the other sex to introduce provisions which may not mean any sense at all (*laughter*). With great deference to the other sex, they seem to be swayed more by the spirit of opposition than by a spirit of co-operation with man in family life, in domestic management, or in religion: so far as I can see that seems to be the case not only in the so called civilised countries but also in the so called un civilised countries approaching the monkey kingdom (*laughter*).

PRESIDENT: In the kingdom referred to by the honourable member, both sexes are generally supposed to be working together in a spirit of co-operation, at any rate in their quest for food (*laughter*).

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MR. K. R. RAMASUBBA SASTRI: With great deference, Sir, the members of the sex to which the mover of the Bill belongs are, according to Hindu Theology, in the Kingdom of Heaven, the rulers of the universe. Parvati rules the whole universe; it is Lakshmi that distributes all favours in the universe.

PRESIDENT: What is the argument which the honourable member deduces from all that?

MR. K. R. RAMASUBBA SASTRI: As I have already submitted, Sir, the amendment, as it is, is senseless. Secondly, it was in a spirit of co-operation and compromise that the 'word' communities, in the original exemption clause, was substituted by the word families'. That is the bare minimum to enable those who have serious objection to the present Bill, on grounds of orthodoxy, to save themselves, at the option of Government, by means of exemption. It was purely an act of grace on the part of the Government towards the conscientious objectors to this Bill.

Sir, under modern conditions, with the dowery system and many other conditions introduced by western civilisation, any unfortunate person who begets a daughter is sure to lose one half of his wealth which he will have to transfer as it were to a stranger to the family who may or may not support the girl after the marriage. Under Hindu Law, the girl gets all the benefits of the marriage, its *thamasha* feasting.....

PRESIDENT: Feasting, Certainly, is not confined to the girl (*laughter*).

MR. K. R. RAMASUBBA SASTRI: Compared to our boys, our girls get more out of our family properties as a matter of fact; but it is all wasted in different ways without even the girl getting much of it. The girl under Hindu Law has no, responsibility towards her parents. On the other hand, even in the case of a father who does not leave any property, the son is bound to perform *Sradh*, and is also under a pious obligation to discharge debts incurred by his father in order to give peace to the father's soul. That is the position of the boy.

What I am therefore trying to point out is that the supporters of the Bill who think that they are helping our girls by this measure, by postponing their marriage, are really mistaken; because, it is when the father is bound to perform the marriage of his daughter before she attains puberty, that she gets, out of the family, even more than her brother. Sir, Mahomed was a Prophet; he was a wise person. He cared more for the present; that is why I call him wise. He laid it down early enough that the girl should get half of the boy's share; and, fearing the rule of perpetuity, in order to save one's family perpetually from poverty, he provided that every man can create a *wakf* of half of his property.

Sir, I am stating all these to show that this Bill has been chosen merely to bring about the extinction of an unfortunate community which is already dying, a minority community, among whom, even in the present day, there are a few who believe in religion.

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PRESIDENT: It appears to me that the discussion is travelling to a much wider ground than can be contemplated in the present discussion. The question now, so far as I can see, is of the practical application of an idea already accepted by the House. I take it that, by way of a compromise, this House accepted the principle of exemption being granted in certain cases. How is that exemption to be worked? What is the exemption about? The exemption is about marriage. A marriage may involve either a major or a minor member of the family. In the case of a major member, there is no question. In the case of a minor member the application has to be put in by some other person. Apparently, that was the reason why, the word 'family' was put in, although somewhat hastily. Anyhow; the idea underlying the use of the word 'family' is clear what was meant was that every family will have, in its corporate capacity, a head or manager, usually speaking and acting on behalf of the family, especially on behalf of the minors belonging to the family. Now the question is whether the word 'family' is vague, whether it conveys the idea of the House correctly and definitely, and whether that word has to be substituted by some other word. The question of the root idea of the Bill or its possibilities do not arise in the discussion at the moment

MR. K. R. RAMASUBBA SASTRI: I beg to submit, Sir, that, perhaps I was not quite clear in expressing my ideas. What I was submitting was that, the substitution of the word 'individual' for the word 'family' would make the provision senseless. It will reduce the Bill to a penal measure pure and simple. The word 'family' the whole of the clause relating to exemption, was adopted after deliberate consideration of the House. It was as a compromise that the word 'community' was substituted by the word 'family'. This provision for exemption was considered absolutely necessary, by this honourable House, to safeguard the interests and religious observances of a minority community which this House thought was entitled to the sympathetic consideration at the hands of this House. Now, Sir, if the word 'family' is substituted by the word 'individual', the benefit of the provision for exemption will be taken away altogether. If, however, the House is going to consider this new proposition, I would appeal to the House to revert to the original wording of the provision, and to substitute the word 'community' instead of the word 'family'. But, Sir, that may not be possible at this stage it is no use pulling back the chord. I may once again invite the attention of the House to the fact that it was after careful consideration and due deliberation that the present provision in the Bill has been adopted, solely with a view to save a minority community from this penal legislation. I may also point out that it was because this provision for exemption was agreed to by the House that the further passage of this Bill became easy and rapid.

Now, what do we find? The whole position is relegated and we are now thrown back to the original position and we have to fight the way from the beginning over again. I submit, in that case why not begin the whole legislation over again? Why not begin with the first reading, go through all the formality and then take the opinion of the community most affected by this Bill?

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PRESIDENT: All this procedure is not in order now.

MR. K. R. RAMASUBBA SASTRI: All that I submit is why kill a horse which will die a natural death in a few days?

PRESIDENT: Even the Travancore Child Marriage Restrained Bill is not an occasion for so much pessimism.

MR. K. R. RAMASUBBA SASTRI: I am unfortunately an emotional man and when this Bill came up and I was called upon to speak on this Bill, it affected me very much and it went to the sushma nadi or nerve of my being. The better portion of our existence is above the navel and the worse portion of our existense is below the nevel The religious scruples of the community against whom alone this malignant provision seems to have been brought in would be extinguished in course of time of their own accord. They have no leaders and there is no organisation for them. Why kill them even before their time? I therefore submit for the sympathetic consideration of the House that this word "individual" if adopted would leave it in the power of any first class magistrate to punish all and sundry. He may say that the word "individual" applies to the child and so let him apply and who are you to apply for him? Is there anything which will say that the father of the individual or the community of the individual or the family of the individual should apply? Are all Magistrates bound by any sense in administering the letter of the law? He may say—I am to administer it as I find it. So I submit that this amendment which seems to be brought under the provisions of the Atharvaveda purely to extinguish a religious community ought not to be accepted. If this amendment has the sanction of the House, I think the word "community" may be substituted.

MR. C. JEBAMONY NADAR: I suppor the amendment. I think that there is sufficient sense in the amendment. To say otherwise is certainly unwise. As for the difficulty in a minor, putting in an application, I am not aware of any, so far as applications to Government are concerned. It is true that when a party has to appear before a court of law, if he be a minor, he has to appear through his guardian. I do not think that such a rule applies to petitions to Governmen . Even otherwise there will be no difficulty because a guardian could always apply on behalf of a minor.

Then again, when you say that a family can apply, I should think that it is unreasonable. For, there might be an old gentleman who might happen to be the manager of that family and there might be junior members who may not like child marriage and their wishes may be against the wishes of the old gentleman. Then there will be a conflict, and there will be no chance to such junior members to exercise their discretion. On the other hand, the amendment gives equal independence to all the members of the family.

MR. K. R. RAMASUBBA SASTRI: If, after all, this Hindu Law with its peculiar features is so very objectionable, why are Nayars, Ezhavas

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and the Krishnanvaga community trying to change the marumakkathayam system of inheritance to makkathayam system under the Hindu Law.

MR. C. JEBAMONY NADAR: They all desire a change from one system to another. Here also we desire a change.

Even as the amendment stands, every person who is now alive can get exemption. Even a child that is born today or within 6 months from the passing of the Act can get exemption. Thus the present generation can, if so desired be free from the operation of the Act. On the other hand, if you do not accept the amendment, the Act itself would be a dead letter, for exemption would be to a family for ever and that is what the clause as it stands, means.

MR. K. R. RAMASUBBA SASTRI: What about the child in the womb whose sex cannot be determined?

MR. C. JEBAMONY NADAR: The future generation, I hopes would have more refined views.

So, I think that the amendment is reasonable and that it deserves the support of this house.

MR. E. SUBRAMONIA AIYAR: Sir, though I do not claim to be as emotional as my friend Mr. Sastri, yet I am not touched by this illconsidered—if I may say so—amendment. Let us read the Section as it stands.

> "Our Government may, by notification in the Government Gazette, exempt any family in Travancore from the operation of this Act, on application made in that behalf—(it does not stop there)—within six months from the passing of this Act."

So far as the language goes, it is not seeking permission to do any particular act. We should not lose sight of that fact. The section does not run with these words: "If a person applies to Government for conducting a child marriage, permission may be granted to him" on certain conditions or without any condition whatsoever. If the Section had been to that effect, that is, if the Section had been that if the head of a family applied to Government for performing an act which is to be done in the near future, I can understand the amendment to such a provision by saying—let that individual who is to perform the marriage apply and obtain that permission. That is not the scheme of the Act itself. That provision relates to the question of exemption,—exempting a family from the operation of the Act, the limitation being that an application should be made. It was very carefully and cautiously stated "on application made". It was not stated "on application made by any person". So it is exempting a family from the operation of the Act and not granting permission to a family to do a particular thing. I emphasise this aspect of the matter to remove an entire misconception, if I may be permitted to do so, which appears to have been entertained by my honourable friend Mr. Nadar. He seems to think that it is a sort of asking permission for doing a particular act and that people having more refined views will have to be liberated under the new system and that they may be able to take a

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better and more comprehensive view of the whole matter. I do not want to join issue with him on the question whether the coming generation or the generations yet to come are going to have more refined views than those persons who at present are afraid of departing from well-recognised institutions which to their knowledge do not affect them in any way and which have not touched them in their advancement one way or the other. It is only a privilege. To take the illustration of the honourable member. There is an old man like Mr. Subramania Aiyar who has got very old views on these matters.

MR. PUTHUPALLI S. KRISHNA PILLAI: Which Subramania Aiyer?

MR. E. SUBRAMONIA AIYAR: Mr. E Subramania Aiyar. His son may have more advanced views. I apply to the Government and sanction is given to me and my family is exempted from the operation of this Act. If my son has advanced views, is he prevented from marrying his daughter in her 25th year? The House should not lose sight of this fact that granting exemption to a family does not mean that members of that family are debarred from performing marriages as they please They are not bound to perform child marriages.

MR. C. JEBAMONY NADAR: Is there any provision in the Bill to cancel an exemption which is once granted?

MR. E. SUBRAMANIA AIYAR: Without my answer the learned member is able to see that there is no provision cancelling the exemption. But at the same time if the honourable member had listened to the logic of my argument he would not have put this question at all. For, if a person is granted exemption under the provisions of the Bill, that is, given the privilege of performing child marriage without subjecting himself to the penalties therefor, does the Act anywhere say that he is bound to perform child marriage? In such a case where is the necessity for cancellation? The agreement advanced was that an old man may apply for permission and he may get it. Subsequently, the junior member with advanced views will be bound by that permission. Where is the binding nature of the permission? There is all the distinction between exemption from a disability and an obligation to do a particular thing. So, there is nothing in that. The fact that an exemption is once granted does not mean that anybody, even the person who has obtained the exemption, is bound to make use of it. All that is pointed out is that if he has got the exemption, he can if he chooses perform the child marriage and will not be punishable. That aspect of the matter must be kept in view.

I began by saying that this Section is not granting permission to a particular person to do a particular act. If it were so, probably the substitution of the word "individual" for the word "family" may not make such difference. But this word "family" had been introduced with another object. Apart from the argument advanced that the original word was community and that subsequently it was changed to "family" in a spirit of co-operation, apart from all those facts, I do not contend for a moment that there should be estoppel.

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[Mr. E. Subramonia Aiyar.]

Estoppel is not of the question. It is open to this House to say that we voted for "family" then, but now we do not want it. Though there is no question of estoppel, I request the House to view that amendment in the spirit in which that was first made. Apart from that, the word 'family' was used then with this object. There are several Sections in this Bill. For instance—,

> "(a) Whoever, being above eighteen years of age and below twenty one, contracts a child marriage shall be punishable with fine which may extent to one thousand rupees."
>
> "(b) Whoever being above twentyone years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to one thousand rupees or with both" and so on',

so the cruk of the problem is this. There is the performance of a child marriage. Several persons who took part in it directly, actively, or indirectly are held answerable for it. That is how this Bill proceeds to function. If an 'individual' is exempted from this bill, what does it mean? Suppose a Brahmin priest gets exemption under Clause 11 from Government. Suppose all the Brahmin priests in Trivandrum make an application to Government that they should be exempted from the operation of this bill. We will take it that the Government grant it. What does it mean? The implication is that those priests can therefore take part in a child marriage. They can conveniently be warded off from punishment, because they have the exemption from Government. So, the exemption that is applied for is granted, and then it means, that a person has got permission to do a particular thing. I am only elaborating the sense of that provision. I am not for saying that the amendment that has been brought forward is senseless. I am making a general remark, you may make sense or nonsense out of it. Let us see, what are the implications of that,—whether the provision will be appropriate with the word "family". These are the matters. It is not a mere verbal amendment that is now sought for. We should not forget that fact. It is not an improvement on the amendment. It must be remembered that the principle, the idea underlying the section, as I said, is exemption. Suppose a number of priests apply for exemption. It may be granted or not. If the exemption is granted, it means that they can perform child marriage wherever they like. Suppose I get exemption. I do not seek permission for performing child marriage. So, I am saved. In other words, whoever conducts, whoever performs, whoever directs a child marriage, I can take part in it. In this manner, I say I can get a number of people, marry them and make myself the guardian of that scheme of things, because there is exemption for me. I am exempted from the penal provisions of this bill.

The object of the proposed amendment seems to me that a certain disability is sought to be imposed upon the free activities of certain individuals in the matter of conducting marriages or attending marriages

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especially in certain communities. I ask, is it not a mere individual act? This bill is not aimed at marriage between individuals. It is aimed at that class of marriage where it is not merely a matter of individual volition between parties. If this bill could apply to those communities where a marriage is a matter of volition between two individuals, I can understand a restricting of the activities of the individual or individuals. But it is the contrary. This bill is aimed at certain communities where marriages are not the free act as we understand it. I do not say that it is the result of free volition on the part of the parties to the marriage. It is to apply where the bridegroom and the bride are brought together and bound together by persons who are interested in the welfare of those parties. So, it is to those cases that the bill is applied. This is a case, therefore, where the family system prevails. The word 'family' has been cautiously used, because it is to apply to those communities where the family system prevails. When you refer to the Ezhava Act or to the Nair Act or other Acts where the group system prevails— we use the word 'family'. In Travancore we know what family is and in which families, marriages are being brought about by persons other than those members of the family. So, the word 'family' has been used. A Hindu undivided family is the chief institution aimed at for the purpose of this bill. No doubt, in our society we are advancing. If disintegration is the only process of advancement, I have nothing to say. We have recognised certain systems which may be similar to systems elsewhere, but sometimes dissimilar. That is a group nursing, living, working on ideas of cohesion and collectiveness. They from the background of the institution upon which our society is aimed at.

MR. N. RAMAKRISHNA PILLAI: May I know from the member whether the exemption referred to is applicable to one act alone or to several acts?

MR. E. SUBRAMONIA AIYAR: The Section, as it stands, if applied, entitles him to perform any number of child marriages with one exemption I am only pointing out that we have certain recognised customs in performing marriage in a family. Our family is an institution. It is our unit no doubt. Even now we have not completely given up that system. A time may come when those systems may disappear. Exen today we read the Hindu Law, we administer the Hindu Law; we adopt that law as well as customs and manners. Our family is the Hindu family. I am putting that word 'family' as it is the recognised unit in the system where this sort of marriage is prevalent. so, there is the family unit. Now if you say that—

MR. KOTTALIL P. ABRAHAM: Does the act contain a family?

MR. E. SUBRAMONIA AIYAR: It is not necessary to answer that, because it does not contain it. But, if the object of the question is to elucidate what in meant by the word 'family', well, I have begun by saying it is better I don't deny--everybody must know what it is and

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[Mr. E. Subramonia Aiyar.]

why a 'family' has been used. This so-called system of practising child marriage, it is said, is prevalent in certain communities." That is recognised where a marriage is brought about, not according to free lover not according to mutual fascination between one party and the other, but through the intercession of persons who have got with them an ultimate voice in it. There are certain communities of such description. Why should there be a legislation? Legislation is never contemplated by anybody. We are legislating with respect to the systems and institutions which are prevalent here. It is aimed at those communities wherein this system of child marriage is prevalent, namely an undivided Hindu family. As was observed by the Dewan-President the other day, it refers to an agnatic Hindu family and not a cognatic Hindu family. So, what is attempted here is a family in which child marriages take place. It consists of a father, mother and children, so far as the unit is concerned. I am not concerned with the old Roman family or some such family. A family consists of these individuals and child marriages take place in those families. What is sought for is an exemption for a family under the operation of this bill, so far as application is needed in that behalf. It means that the sense of child marriage in that family is not a prohibited thing and thereby anybody can do it. In other words, if I attended a child marriage and took the betel and cocoanut, I am held liable for being a party to it. Though I do not go so far, yet what I am pointing out is the idea.....

PRESIDENT: Does the honourable member say that the receiving of cocoanut an act of promoting marriage?

MR. E. SUBRAMONIA AIYAR: Yes, Sir.

I am only trying to explain the idea.....Suppose there is a child marriage in a family which ordinarily is prohibited and if that particular family is exempted—a child marriage there is not an act which is prohibited. Therefore all persons must co-operate in that marriage as before. The attempt is not, as I began by saying, getting permission for the family to do a particular act immediately or in the near future. Having that view of the matter, my idea is this—

MR. K. R. RAMASUBBA SASTRI: My friend referred to cocoanuts. In that cocoanut itself, the upper half which contains a growth is the male and the lower half is the female. Cocoanut comes to help you in this way. The fact of giving cocoanut itself is significant in that the welfare of the parties concerned is not free love. That is the result of consideration of the elders of the family. The giving of cocoanut is based on hygienic principles, and not on mere parentage, or colour, or other considerations, free love etc.

MR. E. SUBRAMONIA AIYAR: I am not aware of all that. I am not an adept in the mysticism of cocoanuts either. But I know this much. I was trying to place before the House what is the basic idea underlying it.

At the cost of repetition, after all this elaboration, it comes to this. The clause 11 is not requesting permission from the Government for any person to do any particular act today or tomorrow.

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It is a Section which contemplates application to the Government to exempt a person or persons from the operation of this Act. What is prevented by the Act, what you shall not do, without submitting yourself to a penality is a child marriage. Child marriages take place in Hindu families. In Hindu families there is a fear that the members of the family *viz.* the father, mother, brother, or sister who take part in the marriage will be subject to prosecution. Even others who might take part in the marriage will be subject to punishment To avoid all that, if a child marriage in a particluar family is not such an obnoxious thing, Government might grant exemption to a particular family. If the family is exempted every one can conscientiously and openly attend marriages conducted there. If the family system is an absolute hinderance to the progress of marriage in general and it has no right to exist, then I have nothing to say. Exemption does not mean permission. I am not bound to marry my daughter when she is 10 years old. I can marry her in her 55th age is she lives to that age. Draw a distinction between exemption and permission. If you get an exemption, then the other argument becomes a dead letter. It is absolutely meaningless. Are all the families in Travancore going to ask for exemption? If so what does that mean? It means that this measure is opposed to the good sense and propriety of those whom it ties. If on the other hand the views are advanced and nobody wants child marriage, why all this prohibition? Are you going to legislate without having any regard to the wishes of the community which it affects? In that case I appeal with all earnestness to the numbers for a more sympethetic consideration. I do not wish to say whether it is senseless or full of sense. It is a subject where no question of chivalry or colour should mar your decision. Let us look at the question unbiased. Are you going to give an exemption? Then to whom are you going to give it? Is it to the family or to the individual? Put that plain question to you. So my submission is that this amendment is mischievous and therefore should be thrown out.

MR. PUTHUPALLY S. KRISHNA PILLAI: May I know whether the exemption will continue or cease to operate in the case of a family which is exempted under the present clause when it is divided?

MR. E. SUBRAMONIA AIYAR: We are legislating for the present. When the Nayar Act was passed, Section 39 remained operative so long as the family remained undivided. Any member of the family has got capital share. Judges interpreted like thatland even now the same interpretation continues. Let us consider this question. There is a family. The head of the family is exempted. That family is divided into 1000 parts. The question is whether the exemption will be taken advantage of by all those 1000 units which come under the family or not It will be time for us to consider it when those matters arise. My point is that it may or it may not. But so long as the family remains undivided the exemption will apply to that family. Whether that exemption can be made use of by the branches of the family, well, we do not know. More interested members may come to the legislature. They may even repeal the whole law or even make a new law. But so far as the present generation is concerned the word 'individual" is neither clear nor definite.

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MR. JOSEPH VITHAYATHIL: I beg to oppose the amendment. During the second reading stage of the Bill, Mr. E. Subramonia Iyer and the co-oped members brought forward important amendments, Mr. E. Subramonia Iyer then suggested that if this exemption clause would be accepted by the House he and his friends would withdraw the other amendments. Then discussion proceeded on the exemption clause. In the course of the debate Mr. E. Subromonia Iyer was in the first instance asked to give up his claim in favour of any non-brahmin community and to speak on behalf of the Brahmin community alone. Afterwards he was asked to limit his demand to the Brahmin "family". Then the interpretation of the word "family" became the subject matter of discussion and the President asked Mr. Subramonia Iyer whether he did not mean the agnatic family and Mr. Subramonia Iyer said that he meant so.

PRESIDENT: Without attempting to choke discussion or deflect it, I am bound to point out, speaking for the moment purely as a lawyer, that there are certain difficulties attendent both upon the amendment and upon the bill, as it stands at this moment. It would not do, I think, for this honourable House to rush through and pass a bill and adopt certain formulae which may either be canvassed very strenously in court or may lead to results which this honourable House had not in contemplation.

Let me instance some of the difficulties which have occurred to me as I was hearing the discussion here. Let us take a Mohamedan family, for instance. It will be remembered that this Section does not make any difference between Hindus and Mohamedans:

> "Our Government may, by notification in the Government Gazette, exempt any individual in Travancore from the operation of this Act, ..."

In the case of a Mohamedan family, it will be remembered that the personal laws relating to Mohamedans are very different from the personal law relating to Hindus, and the lawyers in this House know that there are practical difficulties in defining the scope of the word "family" under Mohamedan Jurisprudence so as to be operative in cases of this kind especially in view to the basic differences in the Marriage-Laws and Inheritance Laws.

Secondly, the use of the word "individual" leads to many difficulties, especially as the question may arise as to who is to apply or to ask for the exemption. One member may ask for exemption and the others may object to it. The question as to who is to be treated as the guardian or representative for the purpose, in case there is no father to exercise what may be called "*Patria Potestas*" for the time may also arise. There are other aspects which have to be considered by this Legislature. Suppose there is a father and his sole daughter and his wife. Suppose the father and mother differ, what happens? Now the question has been raised, and this is common ground, that the word family was thought of on the spur of the moment, on the last occasion.

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I would suggest that the House should take some more time to consider this matter. There will be another meeting of this House within a couple of months or three months at the most as there is a tremendous volume of legislative business pending. For the moment, I am not thinking of the religious side of the question or any other aspect, but purely from the point of view of draftsmanship so that it may not be open to any criticism by courts. Very often courts are act to say that the legislature should have known better, and they cannot go beyond the four corners of the Section. We ought not hurry and push through a particular portion of the bill which may not be regarded as conducing to the dignity and the legislative capacity of this honourable House. I am suggesting that because this House has waited so long and will be meeting again very shortly, honourable members may consider the matter more deeply and put forward their respective contentions.

I am sure that adequate legal formulae will be found and both sides could put forward arguments and the House may accept the best solution possible.

MR. JOSEPH VITHAYATHIL: In view of the pronouncements from the Chair I move for a postponement of the further discussions on this Bill.

SRIMATHI T. NARAYANI AMMA: I accept it Sir.

The motion was put and carried.

THE TRAVANCORE CHITTIES ACT (AMENDMENT) BILL.

MR. E. P. VARGHESE: Sir, under Standing Order 34 I move for leave to introduce the Travancore Chitties Act. and I move that the Bill be read in the Assembly.

MR. C. JEBAMONY NADAR: I second it.

MR. PUTHUPALLY S. KRISHNA PILLAI: On this question, I wish to make a few observations. It is a one clause bill and seeks to amend the Chitties Act. From the statement of objects and reasons it appears that its intention is to give some sort of redress to the defaulting subscribers. When the debt relief question itself is in the hands of an expert committee who will be going into all these questions in great detail it is for the honourable members to consider whether we should proceed with the further stages of the bill or whether it cannot be postponed with advantage for a future date. I can further assure the honourable members that this matter will be brought to the pointed attention of the Committee now appointed.

PRESIDENT: In otherwords, it is suggested that this question will be considered by the Committee first and then by the House.

MR. E. P. VARGHESE In view of the assurance given by the Legal Remembrancer, I agree to the postponement of the further consideration of the Bill.

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